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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-eighth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 3rd MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 6 August 1996, at 3 p.m.

Chairman: Mr. EIDE

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REVIEW OF THE WORK OF THE SUB-COMMISSION

* The summary record of the second part (closed) of the meeting appears as document E/CN.4/Sub.2/1996/SR.3 /Add.1.

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The meeting was called to order at 3.10 p.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (agenda item 6) (continued) (E/CN.4/Sub.2/1996/9 and 32)

1. Mr. SALMAN (Observer for Iraq) said that his country was the victim of political scheming by States which claimed to be protectors of human rights but ignored the devastating consequences of measures such as the economic sanctions that had been imposed on Iraq since 1990. Some members of the Security Council had distorted the purpose of sanctions as a short-term instrument for the settlement of international disputes and were using them instead to deprive peoples of their basic rights to food, medicine, education and work. When sanctions became a political weapon designed to starve people into submission, they violated the Charter of the United Nations and the fundamental principles of human rights. The Secretary-General had referred in the supplement to an Agenda for Peace (S/1995/1) to the difficulties raised by the Security Council's increased use of sanctions and their unintended effects. In the case of Iraq, those effects included a dramatic increase in the infant and child mortality ratios, widespread malnutrition and a high incidence of contagious diseases. Poverty had also led to an increase in the crime rate but the Iraqi Government had shown leniency under the circumstances, issuing a general amnesty in 1995. He urged the Sub-Commission to maintain its neutral stand with respect to the dangerous impact, particularly on vulnerable groups, of the continuing blockade, to make suggestions as to how its effects might be alleviated and to call for the lifting of the sanctions.

2. Mr. KHOURY (Observer for the Syrian Arab Republic) said that Israel's occupation and illegal annexation of the Golan Heights had been condemned as a violation of human rights in the Vienna Declaration and Programme of Action and in the most recent report (A/50/463) of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories. Israel exercised tight control over the natural and economic resources of the Golan Heights, particularly water, imposed heavy taxes on Arab agricultural produce and continued to confiscate Arab land for its settlements in violation of article 49 of the Geneva Convention Relative to the Protection of Civilian Persons in Time of War and article 85 of Protocol I Additional to the Geneva Conventions. The Special Committee's report concluded that the human rights situation in the occupied territories was deteriorating and condemned the repeated closures of the territories, collective punishment, the violent behaviour of Israeli settlers and other intolerable practices.

3. The Arab States meeting in Cairo had nevertheless proclaimed their continued commitment to the peace process based on Security Council resolutions 242 (1967), 338 (1973) and 425 (1978) and the principle of land for peace in their final statement issued on 23 July 1996, a commitment that had been echoed at other recent top-level meetings of the Organization of the Islamic Conference, the Non-Aligned Movement, the Organization of African

Unity, the European Union and the group of major industrialized countries. The policy being pursued by the new Israeli Government, however, would lead to renewed tensions in the region, returning it to the conditions prevailing prior to the Madrid Conference.

4. He urged the Sub-Commission to call on Israel to abide by its commitments, to respect the resolutions of the Security Council and international law, to halt settlement-building and to stop obstructing the peace process.

5. Mrs. MARKIDES (Observer for Cyprus) said that the European Commission on Human Rights had declared the fourth inter-State application of the Government of Cyprus against Turkey admissible on 29 June 1996. The complaints of her Government included unlawful detention of a large number of persons missing since 1974, the refusal of the Turkish authorities to allow more than 200,000 Greek Cypriot refugees to return home, illegal implantation of settlers from Turkey, inhuman treatment of Greek Cypriots still living in the occupied territory and the failure to hold free elections in that part of the country. The European Commission on Human Rights had already found Turkey responsible for the continued separation of families and other violations of the European Convention on Human Rights.

6. Recent statements by the Turkish Cypriot leader to the effect that the Greek Cypriot missing persons had been killed when the Turkish army had surrendered them to Turkish Cypriot "fighters" did not constitute the well-founded and convincing evidence that was required by the United Nations Committee on Missing Persons in Cyprus.

7. The few remaining Greek Cypriots and Maronites living in the occupied territory, 75 per cent of whom were elderly people, continued to be the target of racism, aggression, murder, looting and destruction of places of worship and profanation of cemeteries. The report of the Secretary-General on the humanitarian review conducted by the United Nations Peace-keeping Force in Cyprus (UNFICYP) (E/CN.4/1996/54) confirmed that the severe restrictions placed on those communities would eventually lead to their disappearance from the northern part of the island. Their living conditions had been described as "inhumane" by the Rapporteur on Cyprus of the Parliamentary Assembly of the Council of Europe.

8. Efforts to eradicate all traces of Cypriot history and transform the occupied territory into a Turkish province continued. The Turkish Cypriot community also suffered economically and socially from the presence of 35,000 Turkish troops and the influx of more than 80,000 settlers from Turkey.

9. Her Government would spare no effort to find a just and workable solution to the Cyprus problem and she trusted that the Sub-Commission would urge Turkey to show comparable good will and comply with the verdict of the international community.

10. Mr. ZAHRAN (Observer for Egypt) said that any just and lasting settlement in the Middle East must be based on Security Council resolutions 242 (1967) and 338 (1973) and on the principle of land for peace. He called on the

parties to the Israeli-Palestinian agreements to abide by their commitments and the agreed timetable without resorting to delaying tactics. In particular, he urged Israel to accelerate the redeployment of its forces from Hebron, to halt its settlement policy in the occupied territories and Gaza, to end the blockade, to refrain from reprisals, to return to the final status negotiations with the Palestinians and to enter talks with Lebanon and the Syrian Arab Republic.

11. General elections were due to be held in Bosnia and Herzegovina on 14 September under the General Framework Agreement for Peace in Bosnia and Herzegovina (the "Dayton Agreement"). The Sub-Commission should play its part in ensuring that the elections were held under the best possible conditions. That would require, inter alia, the arrest of war criminals and their subsequent trial by the International Criminal Tribunal for the Former Yugoslavia, facilitating the return of displaced persons to their homes and protecting human rights and fundamental freedoms in Bosnia and Herzegovina.

12. His Government was closely following the tragic developments in the Great Lakes Region of Africa, where more than half a million people had lost their lives in recent years and there were currently several hundred thousand displaced persons. The situation in Burundi was particularly alarming. He urged the Organization of African Unity, the United Nations and the countries concerned to do their utmost to contain the crisis and to work towards peace and mutual understanding among all the peoples of the region. Those who had committed crimes against humanity must be brought to justice before the International Criminal Tribunal for Rwanda. He commended the United Nations High Commissioner for Refugees and the Centre for Human Rights on their tireless efforts to improve the situation in Central Africa.

13. Ms. TANAKA (International Movement against All Forms of Discrimination and Racism) said that although her organization appreciated the efforts of the Government of Sri Lanka to find a political solution to the ethnic conflict in the country, it was deeply concerned about reports of grave violations of human rights and unwarranted use of government powers under the emergency regulations.

14. In May 1996, the Government of Sri Lanka had resorted to unacceptable tactics to break up a strike by staff of the Electricity Board, using the police and army personnel to raid the homes of employees and detaining their wives and mothers in their absence. Five workers were still on remand for alleged involvement in the strike.

15. The Government had also ignored pleas concerning the non-recognition of trade union rights by factory owners in the Investment Promotion Zones. Sri Lankan labour legislation and the tripartite policy on settlement of labour disputes were being flouted with impunity.

16. Her organization had also received reports of numerous arrests without due process, particularly of members of the Tamil community. The imposition of military censorship in the north and east of the country was undermining the freedom of the media.

17. She called on the Sub-Commission to urge the Government of Sri Lanka to respect its obligations under the International Covenants on Human Rights and to report to it and other relevant United Nations bodies on measures taken in that regard.

18. Mr. GARCIA (Pax Romana) said that since the Zapatista rising in 1994 human rights had been persistently and massively violated in the Mexican state of Chiapas, with continuing impunity for the paramilitary groups that perpetrated the violations. The situation was particularly bad in the municipalities of Chilon and Bachajon, where many cases of beatings, murder and arson had gone unpunished. Despite much evidence, the State Government still refused to acknowledge the existence of paramilitary groups, which were especially active in indigenous areas, where disputes over land frequently occurred and resulted in violent action by large landowners. The provisions on land ownership included in the peace agreements signed in February 1996 had not yet been implemented, and post-electoral clashes between supporters of the Democratic Revolution Party and the Institutional Revolutionary Party were taking place in 10 municipalities.

19. Pax Romana therefore requested the Sub-Commission to recommend to all its thematic special rapporteurs and to all its working groups that they should pay special attention to Chiapas and to Mexico in general in their reports and to recommend to the Mexican Government that it should take decisive action to protect the rule of law and respect for human rights throughout the country, especially in Chiapas, and give prompt effect to the rights established in the legislation relating to dialogue, conciliation and an honourable worthy peace in Chiapas.

20. Mr. BOSSUYT said he wished to confine his opening statement to the issue of Burundi. The assassination of President Melchior Ndadaye in October 1993 had sparked off a wave of massacres of Tutsis in which leaders of the main Hutu political party had allegedly been implicated. The Tutsi-dominated Burundi army had retaliated by massacring thousands of Hutus. The failure of the international community to respond to those events had given the green light to those already bent on genocide in neighbouring Rwanda. The report of the international committee of experts entrusted with the task of establishing responsibility for the massacres had finally reached the Security Council only the previous week - almost three years after the events. That report must not go unheeded: if peaceful coexistence between the two ethnic groups was to be restored, those shown to be implicated in the assassination and the ensuing massacres must be punished and barred from public office forthwith, regardless of their rank or ethnic allegiance.

21. Since 1993 both groups had increasingly been the victims of a process of "creeping genocide". The National Convention convened following the death of President Ntaryamira in April 1994 had come up with a power-sharing agreement, appointing a Hutu president and a Tutsi prime minister. Meanwhile, however, Léonard Nyangoma, a former Minister of the Interior, had set up a Hutu opposition movement, the National Council for the Defence of Democracy (CNDD), whose military wing was waging a campaign of indiscriminate terror, aided by the interahamwe who had perpetrated the genocide of the Tutsi minority in Rwanda.

22. In June 1996 an international intervention force had been established under the auspices of former President Nyerere of Tanzania. Unfortunately, the mandate of that force was far from clear; and, in the absence of agreement among the political forces within Burundi, the prospect of foreign intervention had brought down the Government, whose President had taken refuge in the United States embassy a fortnight previously, with former President Buyoya stepping in as Acting President. With the collapse of that first attempt to democratize Burundi's institutions, prospects for a return to calm looked bleak. On his third visit to Burundi the previous month, the Commission's country rapporteur, Mr. Sérgio Pinheiro, had found the situation to be untenable. For at least two years, informed sources had warned that genocide on an unprecedented scale was imminent. It was as yet far from clear which ethnic group would bear the brunt; however, the pattern of events in Rwanda - which, incidentally, had still to be condemned by the international community - together with the alliance allegedly forged between the CNDD and the Rwandese interahamwe, suggested that the Tutsi minority was the more likely victim.

23. While favouring the establishment of true democracy and respect for human rights in Burundi, he did not think that economic sanctions were the best means of attaining those goals. Indeed, sanctions might actually precipitate the genocide. The virtually equal representation of Hutus and Tutsis in the new Government formed on 2 August 1996 was an encouraging sign; what counted, however, was that Government's actions. It must try to bring about peaceful coexistence between the two ethnic groups in a climate of security, and must ensure that the army played its proper role in that process, even when confronted with paramilitary groups that did not abide by international humanitarian law. Success in those tasks could not be taken for granted. However, particularly in view of the new President's previous track record, there was no reason to suppose that it would fare any worse than its predecessor. The international community must now spare no effort to promote democracy and human rights in Burundi; and the best way to secure those goals would be to dissipate fears of an imminent genocide.

Statements equivalent to a right of reply

24. Mr. HOCINE (Observer for Algeria) expressed surprise at certain comments made by the observer for the International Commission of Jurists (ICJ). In 1993, the ICJ had informed the Sub-Commission that the Algerian Constitution had been suspended, but that had not been true. Moreover, at the previous meeting of the Sub-Commission at its current session the ICJ had made further unfounded statements about Algeria. Everyone concerned would certainly have benefited if the ICJ had taken up his Government's invitation to send a mission to Algeria and had waited for an answer to its inquiry regarding the lawyer referred to at the previous meeting.

25. Mr. MUÑOZ LEDO (Observer for Mexico), referring to the statement made at the previous meeting by the representative of the World Organization against Torture (WOAT), said that in any State investigations were carried out by the competent authorities before charges were brought against the perpetrators of acts classified as offences. The Government of Mexico had taken up the requests for information made by WOAT and had notified it of the judicial

investigations. It was therefore strange that WOAT should have acted before the results were known and should have concluded that impunity existed in Mexico.

26. In 1995 several NGOs had complained to the Sub-Commission about the events of June 1995 in the municipality of Aguas Blancas, in the State of Guerrero. Since then criminal proceedings had been brought against 4 former civil servants and 20 policemen, and on 27 February 1996 the Federal Government had requested the Federal Supreme Court to follow up the investigations of the killings that had taken place on 28 June 1995. Subsequently, the Governor of the State of Guerrero had had to resign.

27. The investigations concerning the discovery of weapons reserved for the exclusive use of the armed forces had been carried out in strict compliance with the law. Nothing more had been found since 16 July, and over the past month there had been a substantial fall in the crime rate in the areas concerned.

REVIEW OF THE WORK OF THE SUB-COMMISSION (agenda item 3)

28. Mr. WEISSBRODT noted that since its establishment the Sub-Commission had played a significant role in drafting and inspiring human rights treaties and other instruments, in developing new procedures for implementing human rights standards, in preparing comprehensive studies on critical human rights issues, and in monitoring the protection of human rights in specific situations. Its accomplishments were many, and the Sub-Commission had achieved as much as it could using its previous approaches. However, the time had come to pursue new directions.

29. In standard-setting, the Sub-Commission had made significant contributions to a wide range of international instruments, but it was questionable whether that role could continue in the same way. Partially because of the work done by the Sub-Commission, human rights had become the most comprehensively codified domain of international law, and as compared with the situation 10, 20, 30 or 50 years previously there was now much less need for new human rights standards. The emphasis had shifted to the need for the implementation of human rights norms at the national, regional and international levels. In fact, with some exceptions, the Sub-Commission's most recent proposals for standard-setting had not met with approval from the Commission on Human Rights, which was not capable of handling a steady flow or several proposals for standard-setting each year. The Commission already had five working groups studying standards and it could not manage any more at the present time. Further, the General Assembly, in its resolution 41/120, had sought to limit the number and to increase the quality of new human rights standards.

30. Accordingly, the Sub-Commission should exercise self-restraint. First, it should build on its previous standard-setting and ensure that existing standards were put into practice. Second, if there was a particular need for standard-setting, the Sub-Commission should follow the guidelines in General Assembly resolution 41/120 and do as thorough a job of drafting as it could so as to save the Commission some effort. Third, the Sub-Commission should try to identify needs for new standards in the context of existing

norms, including recognition of duplications, overlaps and the needs for greater coordination. Fourth, the Sub-Commission or the Commission might need to develop a queuing system for standard-setting work.

31. The Sub-Commission had also played an important role in developing techniques for the implementation of international human rights standards, especially through the initiation of thematic procedures for stopping human rights violations. The limits of that technique were, however, being approached. As each thematic procedure had been established, the Commission had devoted proportionately less time and attention to each of the reports of the thematic working groups and special rapporteurs or representatives. The staffing for thematic procedures had been stretched to breaking point. With less attention and less staffing the thematic procedures had a diminished capacity to fulfil their very important tasks. So once again the Sub-Commission must exercise restraint in recommending the establishment of new thematic procedures. Instead, it should focus its energies on improving the existing procedures.

32. The Sub-Commission had produced path-breaking studies on a broad range of human rights issues. Such studies often had important and useful results. Nevertheless, the Sub-Commission lacked a strategic approach for selecting topics for investigation. It had had a strategy in the early days of the human rights movement when there had been a real need for major standard-setting, but that thrust had been overcome by developments. The Sub-Commission had tended to select topics by following the particular interests of its members and by responding to the narrow lobbying of NGOs. It now needed a new sense of purpose so that it could fulfil the applied research function which it had historically pursued.

33. In choosing new studies the Sub-Commission should focus on assisting the six human rights treaty-monitoring bodies, which were so busy reviewing reports submitted by States parties and adjudicating complaints that they could not undertake the studies which would assist them in their work. The Sub-Commission could provide them with specific studies. For example, the Committee on the Elimination of Racial Discrimination had already asked the Sub-Commission for assistance in developing a programme for education against racial intolerance and was concerned that it had not been able to attract sufficient attention to the individual complaint procedure available under the relevant convention. In addition, the Committee on the Rights of the Child had already disseminated an informal document identifying a dozen issues which needed study. Similarly, the former Chairperson of the Committee on the Elimination of Discrimination against Women had informally suggested several areas which needed further study.

34. The Sub-Commission could also help to identify opportunities for coordination among United Nations entities. For example, if the Committee on the Rights of the Child perceived a need for a study of juvenile justice, the Sub-Commission could recommend how the Committee on the Rights of the Child might work with the Committee against Torture and the Crime Prevention and Criminal Justice Branch and could take into account the Sub-Commission's studies on the fair trial and detention of juveniles. It could also utilize the valuable information provided by NGOs to assist it in its research.

35. He was not suggesting that the Sub-Commission should drop everything it was presently doing and accept such a new approach to studies. Indeed, it should complete the work it had on its agenda and other tasks which had not yet received a tidy conclusion. However, it should also focus its work on new studies by asking the treaty bodies for suggestions as to studies which would help them in their work.

36. Reviewing human rights situations in various countries had become a significant part of the Sub-Commission's work, to such an extent that it had a lively debate pursuant to Economic and Social Council resolution 1235 (XLII) and adopted a number of resolutions relating to particular countries, as well as handling communications under the confidential procedure established by Economic and Social Council resolution 1503 (XLVIII). In addition, the working groups dealing with indigenous populations, contemporary forms of slavery and minorities monitored developments within their fields.

37. While the Sub-Commission played an important role in raising international concern about consistent patterns of serious human rights violations in several countries, unfortunately almost all its resolutions under the 1235 procedure were repetitions of Commission and General Assembly actions. In the present context it seemed important to avoid duplication in the light of constrained resources. Moreover, repetitive country resolutions tended to politicize the Sub-Commission and to turn it into a smaller and less representative version of the Commission and the General Assembly.

38. One significant contribution that the Sub-Commission could make in reviewing country situations was to draw attention to new issues which occurred or came to light after the Commission adjourned. Also, the independence of the Sub-Commission's members made it possible for it to identify serious human rights problems which the Governments represented in the Commission might be less willing to tackle. A more efficient and effective allocation of responsibility would be for the Sub-Commission to focus on those situations which had received insufficient attention from other United Nations bodies. For that purpose, the Sub-Commission should continue to recognize the contributions made by NGOs in helping to identify those countries which had new or previously unaddressed situations. As a minimum requirement the Sub-Commission should consider adopting a guideline which limited repetitive country resolutions under Economic and Social Council resolution 1235 (XLII) to those situations that were not on the agendas of the Commission or the General Assembly. It might also take action on countries already before the Commission and General Assembly if there were important new developments. Such work should not, however, allow the Sub-Commission to be used as a forum in which Governments criticized one another. Governmental criticisms, if they were appropriate at all, should be presented in the Commission and the General Assembly rather than in the Sub-Commission.

The public part of the meeting rose at 4.55 p.m.